

# Disciplinary and Other FINRA Actions

## Firm Fined, Individuals Sanctioned

Cambridge Legacy Securities, L.L.C. (CRD® #103722, Dallas, Texas), Oran Ben Carroll (CRD #1295071, Registered Principal, Granbury, Texas), and Russell Kent Childs (CRD #1192883, Registered Principal, Spring, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$50,000 and ordered to pay \$21,864.74, plus interest, in restitution to customers. Carroll was fined \$25,000 and suspended from association with any FINRA member in any principal capacity for three months. Childs was fined \$25,000, suspended from association with any FINRA member in any capacity for nine months and ordered to pay \$412,724.28, plus interest, in restitution to customers. If the firm fails to provide proof of restitution within 15 days, it shall be immediately suspended from FINRA membership until proof has been provided. If Childs fails to provide proof of restitution within 15 days, he shall be immediately suspended from association with any member firm in any capacity until proof has been provided.

Without admitting or denying the findings, the firm, Carroll and Childs consented to the described sanctions and to the entry of findings that the firm, acting through Carroll, its president and registered principal, failed to adequately implement a supervisory system designed to achieve compliance with applicable securities laws and regulations; specifically, the firm and Carroll failed to implement an adequate system to supervise a branch office's activities in light of deficiencies identified during branch audits, and failed to appoint a properly qualified principal to supervise the branch office's activities. The findings stated that the firm allowed Carroll and Childs to accept, and they did accept, a gift and/or gratuity in excess of \$100 from the president and general partner of an entity that offered an alternative investment product, and Childs sold almost \$6 million of that product to customers at the firm's branch office. The findings also stated that the firm failed to properly maintain its email communications and, acting through Carroll, failed to have a procedure in place to ensure that his own email, which was designated as legal and confidential, was properly maintained and reviewed. The findings also included that the firm failed to establish and maintain an adequate supervisory system in the areas of internal communications and correspondence.

## Reported for September 2010

FINRA® has taken disciplinary actions against the following firms and individuals for violations of FINRA rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB).

FINRA found that the firm charged both commissions and advisory fees on transactions in alternative investment products whose offering documents specifically prohibited such activity; Childs charged customers commissions, in the amount of \$434,589.03, and an annual percentage-based advisory fee on transactions in alternative investments. FINRA also found that Childs made unsuitable recommendations to customers and had no reasonable basis for believing that his recommendations of non-liquid alternative investments were suitable for the customers in light of their age, financial needs, annual income, liquid net worth and risk tolerance.

Carroll's suspension is in effect from August 2, 2010, through November 1, 2010; and Childs' suspension is in effect from August, 2, 2010, through May 1, 2011. **(FINRA Case #2007010684401)**

### Firms Fined

**Assent LLC (CRD #104162, Hoboken, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$79,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it permitted a then-proprietary trader and associated person to engage in proprietary firm options trading when he was not properly licensed to do so and, as a result, the firm failed to register a person engaged in its investment banking or securities business in the category of registration appropriate to the function to be performed as specified in NASD® Rule 1032. The findings stated that the firm's written supervisory procedures required all proprietary traders to possess the Series 7 general securities representative license and Series 55 equity traders limited representative license (and Series 63 qualification), and provided for no exceptions unless approvals were obtained and the trader's activities were restricted until the licensing deficiency was rectified; the associated person possessed none of the licenses required by the firm nor were activities restricted. The findings also stated that, as a result, the firm failed to enforce its written supervisory procedures by allowing the associated person to disregard FINRA licensing requirements and the firm's internal licensing requirements applicable to its proprietary traders. The findings also included that the firm failed to enforce written internal firm trading limits that applied to the associated person by failing to enforce its written supervisory procedures concerning the imposition of individual trading limits on proprietary traders; the firm failed to take adequate steps to ensure the associated person and other relevant associated persons of the firm understood the meaning and application of the terms of the associated person's individual trading limits, and allowed the associated person to exceed his individual trading limits on several occasions. **(FINRA Case #2007008882402)**

**The Benchmark Company, LLC (CRD #22982, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$35,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the Real-time Transaction Reporting System (RTRS) within 15 minutes of Time of Trade to an RTRS Portal. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and MSRB

rules concerning MSRB reporting. The findings included that the firm failed to report the correct execution time to the RTRS in reports of transactions in municipal securities. The findings also included that the firm accepted short sale orders in an equity security from another person, or effected short sales in an equity security for its own account, without borrowing the security, or entering into a *bona fide* arrangement to borrow the security, or without having reasonable grounds to believe that the security could be borrowed so that it could be delivered on the date delivery is due; and documenting compliance with SEC Rule 203(b)(1) of Regulation SHO.

FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules addressing quality of market topics, in that the firm's written supervisory procedures failed to provide for minimum requirements for adequate written supervisory procedures in order marking, and locate rule and trade report input. FINRA also found that in transactions for or with a customer, the firm failed to use reasonable diligence to ascertain the best inter-dealer market and buy and sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. (FINRA Case #2007010708301)

**Carolina Capital Markets, Inc. (CRD #38156, Chapel Hill, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and implement policies, procedures and internal controls reasonably designed to achieve compliance with Anti-Money Laundering (AML) regulations. The findings stated that the firm failed to conduct independent testing for its AML program for one year and failed to document that it reviewed 314(a) requests against its customer lists for potential matches under the USA PATRIOT Act of 2001. (FINRA Case #2009016220901)

**Coady Diemar Partners, LLC (CRD #128334, Peapack, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$35,000 and ordered to comply with an undertaking that the firm's chief executive officer will certify to FINRA in writing that the firm has systems and procedures in place reasonably designed to achieve compliance with those laws, regulations and rules concerning the preservation of electronic mail communications. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to maintain and preserve all of its business-related electronic communications. The findings stated that the firm engaged a third-party vendor to preserve such communications, but the vendor did not properly retain the electronic communications and ultimately purged virtually all of the electronic communications it had initially captured for the firm. The findings also stated that the firm did not otherwise preserve all of its business-related electronic communications and emails deleted from the firm's computers were not retained. (FINRA Case #2008011683801)

**Euro Pacific Capital, Inc. (CRD #8361, Westport, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to obtain FINRA's approval before initiating increases in sales personnel, a material change in its business operations.

The findings stated that by the time the firm filed an application, it had exceeded the safe harbors for five months. The findings also stated that during the application process, before FINRA had the opportunity to render a decision on the firm's proposed expansion, it continued to add sales personnel until FINRA alerted the firm to its failure to comply with NASD Rule 1017. **(FINRA Case #2008015429401)**

**Feltl & Company (CRD #6905, Minneapolis, Minnesota)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it made available reports on the covered orders in national market system securities that it received for execution from any person and reports on its routing of non-directed orders in covered securities that included incomplete data because the reports excluded trades routed through Bloomberg. The findings stated that the firm failed to make a report on its routing of non-directed orders in covered securities publicly available during a calendar quarter. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable laws, regulations and FINRA rules, in particular Securities and Exchange Commission (SEC) Rules 605 and 606. **(FINRA Case #2008015231501)**

**First Clearing, LLC (CRD #17344, St. Louis, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, as a reporting agent on reporting members' behalf, it transmitted numerous reports to the Order Audit Trail System (OATS™) that contained inaccurate, incomplete or improperly formatted data; the reports contained inaccurate destination codes and omitted others. **(FINRA Case #2008013916601)**

**First London Securities Corporation (CRD #29709, Dallas, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain a system to retain all electronic communications, including emails, relating to its securities business for at least three years, as required by SEC and FINRA rules. The findings stated that the firm's third-party vendor only retained the firm's electronic communications for 45 days. The findings also stated that the firm failed to maintain a record of supervisory review of its electronic communications for production to FINRA. **(FINRA Case #2008011589801)**

**Goldman, Sachs & Co. (CRD #361, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it reported last sale reports of transactions in OTC™ equity securities to the OTC Reporting Facility (OTCRF) that it should not have reported. **(FINRA Case #2009017187201)**

**H&R Block Financial Advisors, Inc. nka Ameriprise Financial Services, Inc. (CRD #5979, Detroit, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$175,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, through a

former registered representative, it executed unsuitable variable annuity (VA) contract replacements or “switches” involving customers. The findings stated that the VA switch transactions the representative recommended and executed were unsuitable because the benefit to the firm customers from these transactions did not outweigh the substantial costs they incurred selling their old VAs and the significant disadvantages to them in purchasing the new VAs. The findings also stated that, as a result of these replacements, customers paid in excess of \$240,000 in surrender charges, and the firm earned over \$215,000 in gross commissions. The findings also included that registered representatives at the firm who sell VA products must enter information about the transactions into a firm order-entry system, and the information is captured in a transaction detail report; the firm failed to retain some of the reports for the representative’s transactions.

FINRA found that registered representatives who sold VAs were required to complete an annuity suitability review form in which the registered representative identified the funding method for the VA purchase, indicated whether there would be a planned distribution of assets that would trigger a contingent deferred sales charge, and responded whether the customer in question was older than 70 years of age, but the firm failed to retain annuity suitability review forms in connection with the same customer transactions. **(FINRA Case #2007009442501)**

**Hold Brothers On-Line Investment Services L.L.C. (CRD #36816, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted Reportable Order Events (ROEs) to OATS that OATS rejected for context or syntax errors, but the firm failed to repair most of them, so the firm failed to transmit them during that period. The findings stated that the firm failed to enforce its written supervisory procedures which specified that the OATS administrator or designee would monitor rejections on a daily basis and repair and re-submit the rejections as soon as possible. **(FINRA Case #2008013950101)**

**Ingalls & Snyder, LLC (CRD #2288, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit all of its ROEs to OATS on numerous business days. The findings stated that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning OATS. **(FINRA Case #2007009925401)**

**KDC Merger Arbitrage Fund, LP (CRD #10019, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$350,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that employees in its securities lending department knowingly made false entries into the firm’s system indicating that finders had been used to locate securities or counterparties when in fact the finders had performed no legitimate services. The findings stated that this caused the firm to make payments to those purported finders and the finders subsequently paid a portion of their ill-gotten payments directly to the firm employees who made the finder entries

into the firm's system. The findings also stated that these employees were indicted for their activities and pled guilty to charges of conspiracy to commit wire fraud, and another firm employee also caused the firm to pay finders in transactions for which he knew or should have known that the finders performed no services, but he was not criminally charged. The findings also included that the firm's written procedures and guidelines addressing the firm's use of finders were inadequate and that, while the firm's procedures required a supervisor to review securities lending transactions on a daily basis, the procedures did not provide guidance to supervisors who assumed that responsibility; the procedures did not instruct the stock loan supervisors as to what they were to look for in reviewing transaction reports, how to determine what stock loan activity, including rates, was to be flagged as suspicious, how they were to review documents, how to maintain documentation of the reviews, or how they were to follow up on any suspicious activity they discovered.

FINRA found that the firm kept insufficient documentary evidence to establish that a supervisor adequately reviewed the firm's securities lending activities. FINRA also found that the firm had no written procedures requiring supervisory review of electronic communications or addressing how the supervisor of the securities lending department should review employees' communications with other employees, counterparties or finders. In addition, FINRA determined that the firm created and maintained books and records that inaccurately reflected that finders had participated in stock loan transactions and were paid for services rendered when, in certain instances, finders had not performed any function relating to the transactions and had not rendered services to justify the payments. Moreover, FINRA found that the firm failed to retain, as required, email sent and received via its primary corporate email system and an additional email system and failed to retain, as required, electronic communications using an instant messaging system. **(FINRA Case #2007010580901)**

**MF Global Inc. (CRD #6731, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$11,000 and required to revise its written supervisory procedures regarding Trade Reporting and Compliance Engine™ (TRACE™) reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct trade execution time for transactions in TRACE-eligible securities to TRACE. The findings stated that the firm failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of execution. The findings also stated that the firm failed to show the correct execution time on its trade blotter for transactions for the firm's account with another broker or dealer. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable laws, regulations and FINRA rules concerning TRACE reporting. **(FINRA Case #2008013307501)**

**Murphy & Durieu (CRD #6292, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$13,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in OTC equity securities to the OTCRF, and failed to designate some of them as late. The findings stated that the firm failed to report the



correct execution time to the OTCRF for some of the late last sale reports. The findings also stated that the firm failed to report information regarding transactions effected in municipal securities to RTRS within 15 minutes of trade time to an RTRS Portal. The findings also stated that the firm improperly reported information to the RTRS that it should not have; the inter-dealer deliveries were “step outs” and thus, were not inter-dealer transactions that were reportable to the RTRS. **(FINRA Case #2008015256601)**

**Murphy & Durieu (CRD #6292, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$75,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it sold stock shares of issuers that were not registered with the SEC for which no exemption from registration applied, which generated, through the transactions, proceeds of approximately \$790,000 for customers; and failed to conduct a “searching inquiry” to ensure that the sales did not violate Section 5 of the Securities Act. The findings stated that the firm failed to establish and maintain a supervisory system, including written supervisory procedures, reasonably designed to ensure compliance with applicable rules and regulations regarding the distribution of unregistered and non-exempt securities, and, in particular, its acceptance of the delivery of stock shares in certificate form and its subsequent sales of the same. The findings also stated that the firm’s written supervisory procedures did not require an inquiry to be conducted into whether deposited stock shares were registered with the SEC or exempt from registration. The findings also included that the firm failed to identify activity in corporate accounts as suspicious, investigate it and report it through Form SAR-SF filings and, therefore, failed to implement or enforce its AML program by failing to identify suspicious activity, properly investigate it and file a Form SAR-SF on such activity, as appropriate. **(FINRA Case #2008013233001)**

**Mutual Money Investments, Inc. (CRD #32458, Houston, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000, ordered to pay \$10,047.79, plus interest, in restitution to investors, and required to revise its written supervisory procedures regarding the fair pricing of securities. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it sold corporate bonds to customers and failed to sell the bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. The findings stated that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning the fair pricing of securities. **(FINRA Case #2005002341901)**

**NBC Securities, Inc. (CRD #17870, Birmingham, Alabama)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it misreported corporate debt step-out transactions to TRACE; the transactions were not required to be reported and had been reported by another entity, causing them to be dually-reported. The findings stated that the firm failed to establish and maintain a system to properly supervise the reporting of TRACE-eligible securities. **(FINRA Case #2008011606301)**

**Security Research Associates, Inc. (CRD #8200, Larkspur, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,000 and required to revise its written supervisory procedures regarding compliance with OATS reporting rules. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report ROEs to OATS and transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the corresponding new order the destination member firm transmitted due to inaccurate, incomplete or improperly formatted data. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning compliance with OATS reporting rules. **(FINRA Case #2008013562501)**

**UBS Financial Services Inc. (CRD #8174, Weehawken, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,000 and required to pay \$1,620.25, plus interest, in restitution to an investor. The firm made restitution totaling \$6,583.60 for the other customer transactions and for which no additional restitution is required. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it purchased or sold municipal securities as agent for a customer for a commission or service charge that was in excess of a fair and reasonable amount, taking into consideration all relevant factors, including the availability of the securities involved in the transaction; the expense of executing or filling the customer's order; the value of the services rendered by the broker, dealer or municipal securities dealer; and the amount of any other compensation received or to be received by the broker, dealer or municipal securities dealer in connection with the transaction. **(FINRA Case #2008014720301)**

**Wells Fargo Securities, LLC (CRD #126292, Charlotte, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$20,000 and required to revise its written supervisory procedures regarding municipal securities reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in designated securities to the FINRA/NASDAQ Trade Reporting Facility® (FNTRF), and failed to designate some of the last sale reports as late. The findings stated that the firm failed to report information regarding purchase and sale transactions effected in municipal securities to the RTRS in the manner prescribed by MSRB Rule G-14 RTRS Procedures and the RTRS Users Manual; the firm failed to report information about such transactions within 15 minutes of trade time to an RTRS Portal. The findings also stated that the firm failed to report the correct trade date to the RTRS for a few reports of transactions in municipal securities. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and MSRB rules concerning municipal securities reporting. **(FINRA Case #2009018434001)**

**Williams Trading LLC (CRD #43678, Stamford, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$35,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report ROEs to OATS, and transmitted New Order Reports to OATS and related subsequent reports where the



timestamp for the related subsequent report occurred prior to the receipt of the order. The findings stated that the firm transmitted ROEs to OATS that OATS rejected for context or syntax errors and were repairable, but the firm failed to repair many of the rejected ROEs, so the firm failed to transmit them to OATS. The findings also stated that the firm incorrectly reported the second leg of many “riskless” principal transactions as “agent” to the NASD/NASDAQ Trade Reporting Facility (NNTRF) or the FNTRF. **(FINRA Case #2008012765401)**

## Individuals Barred or Suspended

**Peter Gaetano Amato (CRD #4238664, Registered Representative, Atlantic Highland, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Amato’s reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Amato consented to the described sanctions and to the entry of findings that he failed to respond to FINRA requests for information and documents.

The suspension is in effect from August 2, 2010, through February 1, 2011. **(FINRA Case #2009018593602)**

**Harry Michael Anthony (CRD #2356706, Registered Representative, Bellevernon, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Anthony consented to the described sanction and to the entry of findings that he failed to appear to testify at a FINRA on-the-record interview. **(FINRA Case #2009017987501)**

**Diane Louise Luft Barriga (CRD #1022433, Registered Representative, Parkland, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Barriga consented to the described sanction and to the entry of findings that she failed to respond to a FINRA request for information and documents. **(FINRA Case #2009019349701)**

**John Terrence Baxter (CRD #3100259, Associated Person, New York, New York)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Baxter’s reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Baxter consented to the described sanctions and to the entry of findings that he failed to respond to FINRA requests for information.

The suspension is in effect from July 19, 2010, through July 18, 2011. **(FINRA Case #2009018328801)**

**Atiya Karima Bell (CRD #5407415, Registered Representative, Newark, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$2,863, which includes disgorgement of commissions received, and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Bell's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Bell consented to the described sanctions and to the entry of findings that she took over a customer's brokerage account and became the registered representative of record. The findings stated that Bell, who had *de facto* discretionary authority over the customer's account, effected discretionary trades in the account without the customer's written discretionary authorization. The findings also stated that Bell's member firm did not allow its registered representatives to maintain discretionary accounts and, therefore, the firm did not approve the customer's account for discretionary trading. The findings also included that, as a result of effecting these discretionary trades, Bell received \$363 in commissions.

The suspension was in effect from August 2, 2010, through August 13, 2010. (FINRA Case #2009018878001)

**April N. Berkholder (CRD #5001428, Registered Representative, Jacksonville, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for five business days. Without admitting or denying the findings, Berkholder consented to the described sanctions and to the entry of findings that she requested and received an answer key to a state long-term care continuing education (LTC CE) exam from another firm employee. The findings stated that Berkholder asked an external wholesaler for the test and answers to the exam, which he sent to her via email.

The suspension was in effect from August 16, 2010, through August 20, 2010. (FINRA Case #2009021029609)

**Phillip Charles Bishop (CRD #3139282, Registered Representative, Urbandale, Iowa)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Bishop's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Bishop consented to the described sanctions and to the entry of findings that he sold supplement insurance plans to customers and received compensation for these sales without promptly notifying his member firm of his outside business activities.

The suspension was in effect from July 6, 2010, through August 16, 2010. (FINRA Case #2009016925701)

**Michael Aaron Brady (CRD #3121177, Registered Principal, Bolton, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Brady consented to the described sanction and to the entry of findings that he

converted a total of \$194,424.81 from customers who entrusted him with money to invest and, instead, misappropriated the funds for his own personal use. The findings stated that one customer gave Brady over \$90,000 to invest in an Individual Retirement Account (IRA) and in a Section 529 college tuition plan account but Brady used the money for personal purposes. The findings also stated that in one instance, Brady created a fictitious account statement that falsely showed that the customer's account increased from about \$37,000 to over \$48,000 in one year; but, in fact, Brady never invested the customer's money and had converted over \$56,000 of the customer's money to his personal use. The findings also included that, in another instance, a customer surrendered a variable annuity and paid the proceeds to Brady to re-invest in another variable annuity; Brady did not do so and misappropriated the funds, which exceeded \$41,000. **(FINRA Case #2010022037401)**

**Nathan Joel Brenowitz (CRD #1587548, Registered Principal, Woodstock, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Brenowitz consented to the described sanction and to the entry of findings that he falsified a client's insurance policy application and related documents without the client's knowledge, submitted the documents to his member firm's insurance company affiliate and subsequently denied to his firm that he had falsified signatures or submitted falsely signed documents. The findings stated that Brenowitz falsified clients' insurance policy-related supplement documents without the clients' knowledge, submitted the documents to his firm's insurance affiliate and, although the clients later stated that they approved of his actions, the firm's insurance affiliate policy prohibited its insurance agents from signing another person's name, even if the clients' authorized them. The findings also stated that Brenowitz falsely endorsed and deposited a check for \$1,000 made payable to an insurance agent contracted to him into his personal bank account, and falsely claimed to his firm that the insurance agent authorized him to use the check to repay expenses. The findings also included that Brenowitz took an online computer examination on his office manager's behalf that his firm's insurance company affiliate required, and Brenowitz falsely denied to his firm that he did so.

FINRA found that Brenowitz, in written response to FINRA, denied he took any test posing as his office manager and, during his sworn testimony provided to FINRA, denied he took any test posing as his office manager and claimed that the insurance agent contracted to him had authorized him to endorse and deposit the check and use the proceeds for expense reimbursement. **(FINRA Case #2008013450201)**

**Andrew Charles Callihan (CRD #4427620, Registered Representative, Lexington, Kentucky)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Callihan consented to the described sanction and to the entry of findings that he withdrew, or caused the withdrawal of, a total of \$19,000 from bank customers' checking or retirement accounts and deposited the funds into his securities account without the customers' knowledge and consent, and used the funds for some purpose other than the customers' benefit. The findings stated that Callihan failed to respond to FINRA requests for information and documents. **(FINRA Case #2007010731201)**

**Michael Colin Chandler (CRD #1999628, Registered Supervisor, Fayetteville, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Chandler consented to the described sanctions and to the entry of findings that, while associated with a member firm, he engaged in outside business activity, received compensation totaling at least \$13,000 and failed to disclose his outside business activity to the firm. The findings stated that Chandler, in his capacity as branch office manager, falsely attested on the firm's branch office compliance questionnaires that he had disclosed all outside business activities of branch office personnel.

The suspension is in effect from September 7, 2010, through December 6, 2010. **(FINRA Case #2008014596901)**

**Randall Charles Ciesielski (CRD #1835566, Registered Principal, Pewaukee, Wisconsin)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for five business days. Without admitting or denying the findings, Ciesielski consented to the described sanctions and to the entry of findings that he requested and received answer keys to state insurance LTC CE examinations from other employees at his firm who created them.

The suspension was in effect from July 6, 2010, through July 12, 2010. **(FINRA Case #2009021029608)**

**Renee Lynn Coil (CRD #3044399, Registered Representative, Tierra Verde, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which she was suspended from association with any FINRA member in any capacity for one month. In light of Coil's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Coil consented to the described sanction and to the entry of findings that she failed to determine the surrender fees related to variable annuity exchanges she recommended to a customer, and the customer agreed to the exchanges based on his understanding that there was no penalty associated with the exchanges. The findings stated that Coil failed to perform adequate analysis on the variable annuities to determine their surrender periods and the customer was charged surrender fees totaling \$26,286.84. The findings also stated that if the customer had held the variable annuities for two additional months, he would not have incurred the fees. The findings also included that Coil failed to ensure that the imposition of the surrender fees was accurately disclosed on her member firm's variable annuity switch form.

The suspension is in effect from August 16, 2010, through September 15, 2010. **(FINRA Case #2008014756401)**

**Jason Roberts Coles (CRD #2632270, Registered Representative, Rancho Santa Margarita)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the findings, Coles consented to the described sanctions and to the entry of findings that he effected transactions by causing journal entry transfers of cash and/or securities between customer accounts without

employing his member firm's trading system. The findings stated that this practice allowed the customers to exchange cash or securities for securities without utilizing proper firm order-entry procedures for the purchase or sale of securities by customers, caused his firm to issue inaccurate state and federal tax reporting documents to customers and caused operations errors that resulted in customer harm. The findings also stated that the firm did not perform a sales supervisory review at the time the transactions occurred because they did not appear on the firm's sales and purchase blotter, which is the firm's tool for initial supervisory review, but rather, the transactions appeared on the firm's journal entry blotter, which was not used for sales practice review. The findings also included that the transactions were not reported to the marketplace in the ordinary course of the firm's business.

The suspension is in effect from August 16, 2010, through September 15, 2010.  
(FINRA Case #2007010593501)

**William Ray Collins Jr. (CRD #4124933, Registered Representative, Vandalia, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Collins consented to the described sanction and to the entry of findings that he forged customers' signatures on financial documents and submitted the documents to his member firm and failed to send a copy to the customers. The findings stated that Collins failed to disclose a variable annuity service fee in his discussion with customers and, when the customers inquired about the fee, Collins told them that the fee was an error; and to avoid further inquiries he used his own funds to pay the fee without informing the firm or the customers. The findings also stated that Collins accomplished his payment of the fees when he executed money orders on the customers' behalf, forged the customers' signatures on the money orders and submitted the money orders to the firm to pay the variable annuity fees that he had not disclosed to the customers.  
(FINRA Case #2008013648001)

**Matthew G. Cross (CRD #5276946, Registered Representative, Grand Island, Nebraska)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Cross consented to the described sanction and to the entry of findings that he failed to appear for a FINRA on-the-record interview. (FINRA Case #2009018202701)

**Leon A. Cutler (CRD #4733568, Registered Representative, London, Great Britain)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Cutler's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Cutler consented to the described sanctions and to the entry of findings that he engaged in outside business activities and failed to give his member firm prompt written notice.

The suspension was in effect from August 2, 2010, through August 13, 2010.  
(FINRA Case #2008014925901)

**Jonathan Ross Davidson (CRD #5480371, Registered Representative, Brooklyn, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 45 days. Without admitting or denying the findings, Davidson consented to the described sanctions and to the entry of findings that he requested and received answer keys for state insurance LTC CE exams for several states from member firm employees who created them and then distributed them to another firm employee and financial advisors outside the firm. The findings stated that Davidson asked his internal wholesaler to provide him with the last four digits of the wholesaler's social security number so that he could take one state's LTC CE online exam and use the information to satisfy the online requirement of having someone proctor the exam. The findings also stated that Davidson used the partial social security number to log in and access the exam, but did not complete the exam, but, in so doing, misrepresented having a proctor for the exam.

The suspension is in effect from August 2, 2010, through September 15, 2010. **(FINRA Case #2009021029610)**

**David John DeWald (CRD #2782171, Registered Representative, Keller, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity and ordered to pay \$124,519.03, plus interest, in restitution. The restitution must be paid either immediately upon DeWald's reassociation with a FINRA member firm, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, DeWald consented to the described sanctions and to the entry of findings that he participated in private securities transactions without first giving his member firm written notice of his intentions and receiving approval. The findings stated that DeWald made unsuitable recommendations to customers given his complete failure to perform a reasonable investigation concerning the product and that, while reviewing the product information on the company's website, he took its representations for face value and failed to independently verify those representations. The findings also stated that DeWald made negligent misrepresentations of material fact in connection with the sale of installment plan contracts; he misrepresented to customers that they could take charitable tax deductions in connection with their investments, which was not true. The findings also included that DeWald provided customers with sales materials containing misleading and oversimplified descriptions of the contracts, and failed to obtain a firm principal's approval prior to their use. FINRA found that DeWald failed to respond to FINRA requests for documents. **(FINRA Case #2009019041601)**

**Michael Shaun Doherty (CRD #717406, Registered Principal, Hermosa Beach, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Doherty's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Doherty consented to the described sanctions and to the entry of findings that he failed to timely respond to FINRA requests for information and documents.



The suspension is in effect from July 19, 2010, through January 18, 2011. **(FINRA Case #2008014596802)**

**Martin Eboma (CRD #1196096, Registered Representative, Stockbridge, Georgia)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. Without admitting or denying the allegations, Eboma consented to the described sanctions and to the entry of findings that he failed to respond to FINRA requests for information.

The suspension was in effect from August 2, 2010, through September 13, 2010. **(FINRA Case #2008016399901)**

**Traci Renae Faulks (CRD #5142663, Registered Representative, Lucasville, Ohio)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Faulks misappropriated customer insurance premium payments totaling over \$9,600 from an insurance company by comingling her personal cash with cash premium payments and using the funds for her own purposes. The findings stated that Faulks paid earlier cash premiums with premium payments received at later dates, which was something the insurance company had cautioned her about in the past. The findings also stated that the insurance company credited Faulks' customers for the insurance premium payments that Faulks failed to deposit on their behalf. The findings also included that Faulks failed to respond to FINRA requests for information and to appear for testimony.

FINRA did not seek restitution because the insurance company credited the customers. **(FINRA Case #2008012897501)**

**John Bernard Finigan Jr. (CRD #1150693, Registered Representative, Concord, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Finigan consented to the described sanctions and to the entry of findings that he willfully failed to amend his Uniform Application for Securities Industry Registration or Transfer (Form U4) to disclose material information.

The suspension is in effect from September 7, 2010, through December 6, 2010. **(FINRA Case #2009018890801)**

**Steven Emery Floyd (CRD #4894766, Registered Representative, West Jordan, Utah)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Floyd requested and received temporary automated teller machine (ATM) cards in customers' names and used the cards to withdraw a total of more than \$15,000 from the customers' accounts without their knowledge or consent, and used the funds for his own personal use and benefit. The findings stated that Floyd failed to respond to FINRA requests for documents and information.

FINRA did not seek restitution because Floyd's member firm reimbursed the customers. **(FINRA Case #2009016586601)**

**Gregory Earl Hafen (CRD #4312542, Registered Principal, Cerritos, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$48,000, which includes disgorgement of commissions, and suspended from association with any FINRA member in any capacity for seven months. The fine must be paid either immediately upon Hafen's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Hafen consented to the described sanctions and to the entry of findings that he participated in the sales of Universal Lease Programs (ULPs) to members of the public totaling \$482,015.64 and failed to provide his member firm with written notice and obtain the firm's written approval. The findings stated that Hafen received approximately \$42,960 in commissions from ULP sales. The findings also stated that Hafen submitted an outside business activities questionnaire to his firm that failed to report that he was selling ULPs for compensation.

The suspension is in effect from August 2, 2010, through March 1, 2011. **(FINRA Case #2009016709011)**

**Peggy Sue Harrell (CRD #4460320, Registered Representative, Brandon, Mississippi)** submitted an Offer of Settlement in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Harrell consented to the described sanction and to the entry of findings that she obtained loans from her member firm's bank affiliate in the names of a relative and another individual by using certificates of deposit (CDs) in the relative's name as collateral, deposited the loan proceeds in her bank account and withdrew money from the CDs, all without the relative's knowledge or permission. The findings stated that Harrell embezzled in excess of \$1,000 from the bank by fraudulently creating debit tickets from the bank's general ledger accounts and depositing the money into her own account. The findings also stated that Harrell failed to respond to FINRA requests for information. **(FINRA Case #2009019962301)**

**John Allan Jones (CRD #2558599, Registered Principal, Roswell, Georgia)** submitted an Offer of Settlement in which he was fined \$25,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Jones' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. In light of Jones' financial status, a \$25,000 fine was imposed. Without admitting or denying the allegations, Jones consented to the described sanctions and to the entry of findings that, acting with others, he participated in a fraudulent scheme to solicit investments in an unregistered hedge fund and its general partner. The findings stated that Jones engaged in a variety of fraudulent and deceptive sales practices and disregarded his duties and obligations of fair dealing to his customers. The findings also stated that Jones knew, or was reckless in not knowing, that the hedge fund was engaging in a highly speculative trading strategy involving futures contracts and that information the hedge fund manager supplied, which Jones used, contained materially false and misleading statements and omissions, including a pending Commodity Futures Trading Commission (CFTC) fraud action against the hedge fund manager, the fund's theoretical and unproven performance figures, the highly speculative nature of the

hedge fund's trading strategy, and the significant risks associated with an investment in the hedge fund and its general partner. The findings also included that Jones ignored many "red flags," including those in the hedge fund's Private Placement Memorandum (PPM). FINRA found that Jones solicited his customers without conducting a reasonable investigation to determine whether the hedge fund and its general partner were suitable investments and without regard as to whether his customers were capable of evaluating and bearing the risks associated with such investments.

The suspension is in effect from August 2, 2010, through December 1, 2010.  
(FINRA Case #2005001398602)

**Maria George Kakissis (CRD #5482873, Registered Principal, Fairfax, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Kakissis consented to the described sanction and to the entry of findings that she willfully failed to timely amend her Form U4 to disclose a material fact. The findings stated that Kakissis failed to respond to FINRA requests for information. (FINRA Case #2009020127301)

**Clint Harley Keener (CRD #2250146, Registered Representative, Sunbury, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the findings, Keener consented to the described sanctions and to the entry of findings that he made unsuitable trade recommendations in a customer's accounts by recommending purchases resulting in an over-concentration of non-investment grade bonds and other equities for a senior couple with no previous investment experience. The findings stated that Keener mismarked order tickets for purchases for these customers and other customers as "unsolicited" when they were "solicited." The finding also stated that Keener exercised discretion with verbal, but not written, authorization, in customers' accounts, and although Keener frequently spoke to these customers, he did not speak to them every time he entered a transaction in their accounts. The findings also included that Keener did not have the customers' or his member firm's written authorization to engage in such discretionary trading.

The suspension is in effect from August 16, 2010, through October 15, 2010.  
(FINRA Case #2007009431001)

**Mike Robert Kilpatrick (CRD #1278618, Registered Principal, Ventura, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for six months. Without admitting or denying the findings, Kilpatrick consented to the described sanctions and to the entry of findings that he signed his member firm's customers' names to various documents when the firm's procedures prohibited him from signing customers' names on the documents regardless of whether the customers had authorized Kilpatrick to sign their names. The findings also stated that Kilpatrick failed to amend his Form U4 to disclose a material fact.

The suspension is in effect from August 16, 2010, through February 15, 2011.  
(FINRA Case #2007010828201)

**Patrick Soungook Kim (CRD #3132361, Registered Representative, North Caldwell, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Kim consented to the described sanction and to the entry of findings that he falsified certain account-related paperwork that had been previously signed by the customer; Kim altered the forms by changing the commission rate indicated from 1.1 percent to 1.4 percent and/or by changing the date next to the customer's signature. The findings stated that Kim made these changes without the customer's knowledge, authorization or consent and submitted the forms to his employer member firm. The findings also stated that Kim submitted a false and incomplete written statement to a FINRA request for information. **(FINRA Case #2009018171101)**

**Susan Diane Klingel (CRD #3024607, Registered Representative, Delaware, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Klingel's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Klingel consented to the described sanctions and to the entry of findings that she willfully failed to disclose material information on her Form U4.

The suspension is in effect from July 19, 2010, through October 18, 2010. **(FINRA Case #2009018966701)**

**John Leisen Kreuz (CRD #836558, Registered Principal Las Vegas, Nevada)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Kreuz' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Kreuz consented to the described sanctions and to the entry of findings that he signed customers' signatures on various forms to transfer their accounts from his previous member firm to another member firm, and submitted them to his firm without the customers' approval or knowledge. The findings stated that many of his customers agreed to transfer their accounts to his new member firm, but when Kreuz learned that he needed to submit the forms by a certain date, or his previous firm would be entitled to keep the trailing fees for mutual funds he had previously purchased for his customers, he completed and signed the forms.

The suspension is in effect from August 2, 2010, through August 1, 2011. **(FINRA Case #2010021630301)**

**Louis John Liberatore Sr. (CRD #2267036, Registered Representative, Bluepoint, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for three months. In light of Liberatore's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Liberatore consented to the described sanction and

to the entry of findings that he engaged in trading in customers' accounts and did not have a reasonable basis for believing that his recommendations to the customers were suitable, based on the facts the customers disclosed as to their investment objectives and financial needs. The findings stated that that one account was an IRA that traded in speculative and low-priced penny stocks, and the other account was a joint account and traded in options and on margin.

The suspension is in effect from August 2, 2010, through November 1, 2010. **(FINRA Case #2008013937902)**

**Amy Lou Marsh (CRD #2538280, Registered Representative, Eldred, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Marsh's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Marsh consented to the described sanctions and to the entry of findings that she borrowed \$50,000 from a customer at her member firm and did not disclose to the customer that she already had borrowed \$90,000 from another individual and that the debt was still largely outstanding. The findings stated that the firm's procedures specifically prohibited registered representatives from borrowing money from customers; Marsh did not inform her firm of this loan, which was repaid. The findings also stated that Marsh engaged in a private securities transaction without prior written notice to, or prior written approval from, her member firm. The findings also included that Marsh repaid the \$50,000 loan referenced above to the customer by transferring her membership interest in a limited liability company formed to invest in real estate projects in Costa Rica.

FINRA found that Marsh had purchased the membership interest, which is a security for \$50,000, using the funds she had borrowed from the customer. FINRA also found that, while registered at a different member firm, Marsh borrowed \$3,500 and \$5,600 from another customer, and the firm's procedures specifically prohibited registered representatives from borrowing money from customers. In addition, FINRA determined that Marsh did not inform the firm of this loan, which was repaid, and falsely represented on the firm's Annual Compliance Certification Questionnaire that she had not borrowed money from a customer.

The suspension is in effect from August 2, 2010, through February 1, 2011. **(FINRA Case #2009018844901)**

**Martha Joyce Masterson (CRD #4359237, Registered Representative, Valparaiso, Indiana)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Masterson's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Masterson consented to the described sanctions and to the entry of findings that she made a 401(k) retirement plan available to her non-registered clerical staff employed at her member firm and failed to

deposit, into several retirement accounts, funds totaling \$1,475.60 that she had deducted from employees' paychecks within 30 days of the end of the month in which the funds were deducted, thereby mishandling employees' funds.

The suspension is in effect from August 2, 2010, through November 1, 2010.  
**(FINRA Case #2008015381801)**

**Garth Andrew Mather (CRD #2986605, Registered Representative, Heathrow, Florida)** was barred from association with any FINRA member in any capacity. The sanction was imposed following dismissal of Mather's appeal to the National Adjudicatory Council (NAC) as abandoned. The sanction was based on findings that Mather failed to appear for FINRA on-the-record interviews. **(FINRA Case #2009016709701)**

**Marcia Jenay McLemore (CRD #1881990, Registered Principal, West Monroe, Louisiana)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that McLemore misappropriated member firm funds by using expense reimbursements for personal expenses, charging personal expenses to her corporate credit card and failing to pay the bills on the card. The findings stated that McLemore's firm had previously sent her a memorandum about deficient and late payments on her corporate credit card, reminding her that she had agreed to use the card only for corporate expenses and to pay the balance in full each month. The findings also stated that the credit card vendor notified McLemore's firm that her account was delinquent with a balance of \$6,442.20. The findings also included that McLemore's firm terminated her employment and paid the credit card balance, including the charges incurred for her personal expenses, as it was obligated to do. FINRA found that McLemore failed to respond to FINRA requests for information and to appear for an on-the-record interview. **(FINRA Case #2008015708701)**

**Allen Pond Mecham (CRD #1929783, Registered Representative, Logan, Utah)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Mecham consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information and documentation regarding a private securities transaction and improper use of customer funds. **(FINRA Case #2008014099301)**

**David Charles Miller (CRD #4671468, Registered Representative, Houston, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$25,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Miller's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Miller consented to the described sanctions and to the entry of findings that he engaged in outside activities that involved his member firm's customers without providing prompt written notice to his firm in the form the firm required. The findings stated that Miller solicited a customer to engage in a financial arrangement in which the customer pledged a variable life policy and variable annuity contract purchased through the firm as collateral for a loan. The findings also stated that Miller, acting through his outside business, solicited another customer to



loan funds to an outside entity for a construction project. The findings also included that Miller failed to advise the firm in writing in accord with the firm's procedures that he was engaged in these outside business activities with the firm's customers.

The suspension is in effect from August 2, 2010, through February 1, 2011. **(FINRA Case #2008013077101)**

**Marshall Earl Miller (CRD #1512527, Registered Representative, Maumelle, Arkansas)** submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for six months. In light of Miller's financial status, no monetary sanctions were imposed. Without admitting or denying the allegations, Miller consented to the described sanction and to the entry of findings that he was the registered representative for several burial associations for which the investment objectives were income and the risk factors were conservative, investment-grade or moderate. The findings stated that Miller engaged in unsuitable and excessive trading in the accounts, resulting in significant commissions for him and losses for the customers.

The suspension is in effect from August 16, 2010, through February 15, 2011. **(FINRA Case #2007009413701)**

**Christopher Brooks Mintz (CRD #2754673, Registered Principal, Raleigh, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Mintz consented to the described sanction and to the entry of findings that he falsified journal requests for customers' accounts without their knowledge or authorization. The findings stated that Mintz submitted the falsified journal requests to his member firm as authentic and caused securities to be journaled from the customer accounts to his personal account. The findings also stated that Mintz sold the securities that had been falsely journaled to his account and converted the proceeds in the amount of \$1,054,440.97. The findings also included that Mintz failed to respond to FINRA requests for information. **(FINRA Case #2009016922701)**

**John Marcus Newkirk Jr. (CRD #2708577, Registered Principal, Eaton, Ohio)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Newkirk converted \$4,550 he received from customers for deposit into their accounts. The findings stated that Newkirk provided a firm customer with a false account document that misrepresented the amount of funds in the customer's account at the firm. The findings also stated that Newkirk failed to respond to FINRA requests for information and to appear for testimony.

FINRA did not seek restitution because Newkirk's member firm reimbursed the customers. **(FINRA Case #2008015195001)**

**Steven M. Oates (CRD #5631816, Registered Representative, Glendale, Arizona)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Oates consented to the described sanction and to the entry of findings that he misappropriated \$10,000 from the vault of his member firm's bank. The findings stated that Oates took the money from the vault without the firm's or bank branch's

permission or authority. The findings also stated that Oates did not observe high standards of commercial honor when he misappropriated funds from the branch vault. (FINRA Case #2010021601801)

**Michael Alcide Poutre II (CRD #2482252, Registered Principal, Woodland Hills, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for 30 days. In light of Poutre's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Poutre consented to the described sanction and to the entry of findings that he placed orders for the sale of corporate bonds and placed charges on the orders for markups, which were not fair and reasonable, in consideration of the factors set forth in NASD Interpretative Material 2440(b). The findings stated that Poutre solicited securities transactions in actively traded, liquid corporate bond transactions for customers and charged the customers markups or markdowns that exceeded 3 percent and \$400; most of the transactions were large and, because they involved corporate bonds, a markup or markdown over 3 percent would be considered excessive. The findings also stated that the corporate bonds involved were readily available and involved large transactions of higher priced securities, which justified lower percentage rates. The findings also included that the markups and markdowns were not disclosed to the customers and the number of violative transactions established a pattern of excessive markups and markdowns, and nothing in Poutre's or his member firm's business activities justified the markups or markdowns of over 3 percent.

The suspension was in effect from August 2, 2010, through August 31, 2010. (FINRA Case #2008011759201)

**Craig Lee Randall (CRD #1583963, Registered Principal, Fountain Valley, California)** submitted an Offer of Settlement in which he was censured, fined \$35,000 and suspended from association with any FINRA member in any capacity for seven months. Without admitting or denying the allegations, Randall consented to the described sanctions and to the entry of findings that he used a a firm-approved presentation during retail seminars with customers that contained misleading, exaggerated and unwarranted statements, despite his knowledge that FINRA had determined that the presentation violated NASD advertising rules and should not be used; the firm had received a Letter of Caution from FINRA regarding the presentation. The findings stated that Randall subsequently sought employment with another firm and submitted the presentation to that firm for approval with the intention of using it there; the proposed presentation was modified but still contained much of the violative content he had previously used. The findings also stated that at such time, Randall knowingly failed to disclose that FINRA had determined that the presentation violated NASD advertising rules and had notified his prior firm of the violations on several occasions, including the Letter of Caution. The findings also included that while employed with the firm, Randall distributed the presentation to other registered representatives to use with their own potential customers.

The suspension is in effect from August 16, 2010, through March 15, 2011. (FINRA Case #2008013152301)

**James Michael Rapuano Jr. (CRD #4900969, Registered Representative, Branford, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Rapuano consented to the described sanction and to the entry of findings that he made oral and written misrepresentations to a customer at his member firm regarding the value of the customer's account. The findings stated that Rapuano told the customer that the monthly account statements were inaccurate and the account balance was greater than what appeared on the statements, which was not true; the monthly account statements were accurate. The findings also stated that Rapuano provided the customer with a false monthly account statement that was in partial form, in that it only contained the first page showing the total values of the opening and closing cash and securities positions in the account for that period. The findings also included that Rapuano prepared the false statement by taking the first page of the customer's monthly statement from a prior month and altering the dates. FINRA found that Rapuano also misrepresented to the customer that the larger account value reflected on the altered statement represented his actual balance. **(FINRA Case #2010021463201)**

**Stephen N. Richards (CRD #4195178, Registered Representative, Houston, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Richards consented to the described sanction and to the entry of findings that he made a series of changes to the account of a deceased customer, including changing the account address to that of his member firm, the name on the account, and an instruction on the account in order to allow redemptions to be wired to his personal account. The findings stated that Richards effected mutual fund redemptions from the account and made corresponding wire transactions to his personal account totaling \$38,194.38. The findings also stated that Richards used his own login ID and those of his colleagues, without their knowledge or permission, to process these transactions. **(FINRA Case #2009016955001)**

**Domenic Carlo Ruggiero (CRD #3011030, Registered Representative, Middleburg Heights, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Ruggiero consented to the described sanction and to the entry of findings that, in his capacity as a financial consultant with his member firm, he did not have authority or approval to sign or issue Letters of Credit, but he signed a Letter of Credit on the letterhead of the firm's predecessor in the amount of \$55,000 and gave it to a customer without the firm's knowledge or authorization. The findings stated that Ruggiero signed another Letter of Credit on the firm's letterhead in the amount of \$75,000 and gave it to the customer without the firm's knowledge or authorization. The findings also stated that the beneficiaries of these Letters of Credit presented them to a bank, an affiliate of the firm, for payment. The findings also included that Ruggiero's issuance of the unauthorized Letters of Credit to the customer caused the firm to pay a sum of money to the beneficiaries as part of a settlement in connection with the unauthorized Letters of Credit. FINRA found that Ruggiero failed to appear for a FINRA on-the-record interview. **(FINRA Case #2008015794901)**

**John Michael Elias Saad (CRD #2185911, Registered Principal, Atlanta, Georgia)** was barred from association with any FINRA member in any capacity. The SEC affirmed the sanction following Saad's appeal of the NAC decision. The sanction was based on findings that Saad submitted false expense reimbursement reports and receipts to his member firm's parent company, which resulted in \$1,144 in payments that were made to him, to which he was not entitled, and that Saad misappropriated firm funds.

This decision has been appealed to the U.S. Court of Appeals for the District of Columbia, and the bar is in effect pending consideration of the appeal. **(FINRA Case #2006006705601)**

**Anne Marie Schlenker, aka Anne Marie Rippy (CRD #4536970, Registered Representative, Bozeman, Montana)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Schlenker consented to the described sanction and to the entry of findings that she made unauthorized withdrawals and transfers totaling approximately \$265,800 from customers' accounts to accounts she controlled, and converted these funds for her own use and benefit. **(FINRA Case #2010021961801)**

**William Gregory Slonecker (CRD #3048481, Registered Representative, Nashville, Tennessee)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Slonecker recommended and executed unsuitable variable annuity contract replacements or switches involving customers without regard for their age or financial backgrounds, and received \$85,000 in commissions. The findings stated that Slonecker's customers received no significant benefit from the transactions but incurred substantial surrender charges, new extended surrender periods and, in some cases, paid additional fees. The findings also stated that Slonecker made numerous false entries in his member firm's electronic order-entry system and on other firm records to obtain approval for the switches he recommended to the customers, causing his firm to create and maintain inaccurate books and records. The findings also stated that Slonecker's false entries in the firm's electronic order-entry system and suitability questionnaires were material false representations he made to his firm. The findings also included that Slonecker falsely represented to customers that surrender fees associated with the switches would be fully recovered by the bonuses they would receive from their purchases of new variable annuity contracts, when he knew or should have known that the bonuses did not offset the surrender fees and he failed to disclose and explain to the customers the surrender charges associated with switch transactions. FINRA found that Slonecker failed to respond to FINRA requests for information. **(FINRA Case #2007009442501)**

**Anna Maria Somoza (CRD #1599663, Registered Representative, Key Biscayne, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Somoza's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without

admitting or denying the findings, Somoza consented to the described sanctions and to the entry of findings that, after deciding to resign from her member firm to join another FINRA member firm, she used her broker workstation to change certain of her customers' telephone numbers to incorrect numbers and deleted several email addresses in her firm's electronic database, causing the firm to create and maintain inaccurate books and records. The findings stated that Somoza made these changes without the customers' knowledge or authorization, and she was aware that the firm's policies prohibited firm employees from making false and misleading entries in its books and records. The findings also stated that Somoza admitted to the firm that she made the changes because she did not want anyone at the firm calling her clients after she left the firm. The findings also included that the firm immediately terminated Somoza's employment.

The suspension was in effect from August 16, 2010, through September 14, 2010.  
(FINRA Case #2008015103701)

**Crystal Marie Stone (CRD #5364866, Registered Representative, Edmond, Oklahoma)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Stone consented to the described sanction and to the entry of findings that she falsified life insurance policy applications for customers without their knowledge or authorization, and submitted the applications as authentic to an affiliate of her member firm. The findings stated that Stone failed to appear for a FINRA on-the-record interview. (FINRA Case #2009017554801)

**Richard Joseph Stratman (CRD #5302491, Registered Representative, Hamilton, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Stratman consented to the described sanction and to the entry of findings that, without permission and authority, he used a customer's bank account to electronically pay his own personal bills and expenses. The findings stated that Stratman took specific steps to misappropriate \$4,713.50 but was only successful in converting \$2,717.92 because the additional disbursements were prevented when the bank stopped payment on the transactions. The findings also stated that the bank compensated the customer and Stratman reimbursed the bank to cover the amounts the bank paid to the customer. The findings also included that Stratman wrongfully converted approximately \$2,717.92 from the customer and attempted to wrongfully convert an additional \$2,000. (FINRA Case #2009019569401)

**Kristin Lea Tester (CRD #5478300, Registered Representative, Wapakoneta, Ohio)** submitted an Offer of Settlement in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Tester consented to the described sanction and to the entry of findings that she affixed bank customers' signatures to an account signature card with their permission, which she later admitted to an internal bank inspector. The findings stated that Tester failed to respond to FINRA requests for information. (FINRA Case #2009019608301)

**Steven Craig Vanderhoof (CRD #2306547, Registered Principal, Santa Ana, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 30 business days. Without admitting or denying the findings, Vanderhoof consented to the described sanctions and to the entry of findings that he established a corporation and a website to market an “equity repositioning strategy” to investors, with the strategy calling for investors to obtain a loan for equity in a home, through mortgage refinancing or a home equity line of credit, and invest the loan proceeds with the goal of earning more through the investments than the cost of the loan, but a prime purpose in marketing this strategy was to sell mutual funds to investors through a firm he founded. The findings stated that Vanderhoof authored television advertisements that were false and misleading, and failed to provide a balanced discussion and disclose the name of the broker-dealer; and Vanderhoof failed to file the advertisements with FINRA’s Advertising Regulation department in violation of NASD Rule 2210(c)(2)(a) which required that advertisements concerning mutual funds be filed within 10 days of first use. The findings also stated that Vanderhoof designed and authored a website and made the publicly available website, which misleadingly failed to provide a balanced discussion of the risks associated with borrowing money through home equity loans to invest in securities, included false and misleading statements and claims and projected investment results, and was not filed with FINRA’s Advertising Regulation department. The findings also included that Vanderhoof authored an information brochure, which the firm’s registered representatives sent to potential customers, that contained the same advertising content violations and was not filed with FINRA’s Advertising Regulation department.

FINRA found that Vanderhoof approved the equity repositioning analysis for use with potential customers and caused it to be distributed to potential customers when the analysis failed to disclose the risks assumed when investors borrow money from their home to buy securities, contained statements and claims that were unwarranted or exaggerated, and made predictions or projections of investment performance. FINRA also found that Vanderhoof failed to ensure adequate review of the equity repositioning sales materials and failed to ensure that the firm established written supervisory procedures regarding the suitability of equity repositioning recommendations.

The suspension was in effect from August 2, 2010, through September 13, 2010. **(FINRA Case #2007011152601)**

**Jeffery Arden Wicks (CRD #2732177, Registered Representative, Salix, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member firm in any capacity. Without admitting or denying the findings, Wicks consented to the described sanction and to the entry of findings that he misappropriated at least \$449,119.17 from joint account holders at his member firm. The findings stated that \$339,375.30 of the funds that Wicks took from the account holders were from checks for a purported investment in an annuity to be held outside of his firm’s family of companies. The findings also stated that Wicks did not make the investment and instead converted the funds to his personal use. The findings also included that Wicks converted the remaining \$49,743.87 of the funds to his



personal use from monies from the account holders that they intended to be applied to life insurance policy premium payments. FINRA found that Wicks was compensated through a non-firm insurance company for placing fixed insurance business through that firm, and he did not provide notice to his firm of this outside business activity. **(FINRA Case #2009020835601)**

**Matthew K. Wilhelmi (CRD #5386900, Registered Representative, Lake in the Hills, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for nine months. The fine must be paid either immediately upon Wilhelmi's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Wilhelmi consented to the described sanctions and to the entry of findings that, while acting in his capacity as a personal banker for his firm's affiliated bank, he signed a customer's name on an account application, without the customer's knowledge or consent, to facilitate the opening of a checking account. The findings stated that Wilhelmi deposited his own money into the customer's account in order to keep the account active and eligible for a \$100 bonus. The findings also stated that Wilhelmi accessed the account and paid personal credit card bills with the funds he had deposited.

The suspension is in effect from August 16, 2010, through May 15, 2011. **(FINRA Case #2009019974301)**

**Todd Clinton Wirick (CRD #2229990, Registered Representative, Sylvania, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for eight months. Without admitting or denying the findings, Wirick consented to the described sanctions and to the entry of findings that he signed a customer's name to forms related to a variable annuity exchange without the customer's knowledge or authorization. The findings stated that, as a result of the forged documents, Wirick caused \$41,505.57 to be transferred from one variable annuity policy to another without the customer's knowledge or consent. The findings also stated that the insurance company receiving the funds paid Wirick's member firm \$2,282.80 in gross commissions. The findings also included that when the customer received a transfer confirmation reflecting the purchase of the variable annuity, the customer complained and the transaction was reversed; the commissions charged to the customer's account for the transfer were cancelled pursuant to the new variable annuity's "free look" provisions.

The suspension is in effect from August 16, 2010, through April 15, 2011. **(FINRA Case #2009017601101)**

**John Daniel Wosotowsky (CRD #1274071, Registered Representative, Monaca, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Wosotowsky consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information and to testify at a FINRA on-the-record interview. **(FINRA Case #2010022803101)**

**Bear William Woznick (CRD #3152968, Registered Representative, Honolulu, Hawaii)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Woznick's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Woznick consented to the described sanctions and to the entry of findings that he engaged in an outside business activity without providing prompt written notice to his member firm. The findings stated that Woznick engaged in a private securities transaction by selling his personal shares of a company's stock to a customer of his firm outside the scope of his employment with the firm, and failed to provide prior written notice of this private securities transaction to the firm. The findings also stated that Woznick failed to respond to FINRA requests for information.

The suspension is in effect from August 2, 2010, through August 1, 2012. **(FINRA Case #2008014726301)**

### Individuals Fined

**Joseph Anthony Devito (CRD #1479780, Registered Principal, Cortlandt Manor, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured and fined \$10,000. Without admitting or denying the findings, Devito consented to the described sanctions and to the entry of findings that he failed to enforce his member firm's written supervisory procedures with respect to licensing, in that the procedures required designated supervisory principals to ensure that the associated persons they supervised were properly licensed. The findings stated that Devito failed to enforce the firm's written supervisory procedures by allowing a then-proprietary trader and associated person to disregard FINRA licensing requirements and the firm's internal licensing requirements applicable to its proprietary traders. The findings also stated that Devito failed to enforce written internal firm trading limits and failed to enforce firm written supervisory procedures concerning the imposition of individual trading limits on proprietary traders by failing to ensure that the individual and other relevant associated persons of the firm understood the meaning and application of the terms of individual trading limits, and by also allowing the associated person to exceed his individual trading limits on several occasions. **(FINRA Case #2007008882403)**

**Daren Frances Dorval (CRD #4324418, Registered Principal, Staten Island, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured and fined \$10,000. Without admitting or denying the findings, Dorval consented to the described sanctions and to the entry of findings that he established an account for a customer at his member firm for which he was the account representative. The findings stated that on various occasions Dorval entered trades in this account based on communications with an individual who was related to the customer although the individual did not have written trading authority over the account. The findings also stated that Dorval took instructions on the account from the individual without the customer's without written authorization; Dorval should not have accepted orders

from the individual without appropriate written authority. The findings also included that Dorval's entry of trades at the individual's direction constituted an exercise of discretionary power in the account without having received the customer's proper written authorization to exercise discretion and without the firm having accepted the account as discretionary. **(FINRA Case #2008013506501)**

## Decision Issued

The Office of Hearing Officers (OHO) issued the following decision, which has been appealed to or called for review by the NAC as of July 31, 2010. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions where the time for appeal has not yet expired will be reported in future issues of *FINRA Disciplinary and Other Actions*.

**Edward Shea Brokaw (CRD #1162997, Registered Principal, Darien, Connecticut)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Brokaw engaged in market manipulation of securities by placing sell orders near the open and close of the market on a hedge fund client's behalf. The findings stated that Brokaw placed orders to sell shares of the security at the open and close of the market to increase the value of the security's contingent value rights (CVRs) that Brokaw and an individual who controlled the hedge fund held. The findings also stated that Brokaw failed to ensure the preparation of order tickets reflecting the individual's sales of shares of the security, thereby causing his member firm's books and records to be inaccurate.

This decision has been appealed to the NAC and the sanction is not in effect pending consideration of the appeal. **(FINRA Case # 2007007792902)**

## Complaints Filed

FINRA issued the following complaints. Issuance of a disciplinary complaint represents FINRA's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

**Brian Thomas Beldyk (CRD #2035064, Registered Representative, Kennett Square, Pennsylvania)** was named as a respondent in a FINRA complaint alleging that he misappropriated over \$450,000 from customers and converted the funds for his own use. The complaint alleges that Beldyk created and provided false account statements to a customer's authorized representative to cover up his malfeasance, and failed to respond to FINRA requests for information and documents. **(FINRA Case #2009020090301)**

**Carol Jean Bengé aka Carol Jean Digges (CRD #5607996, Registered Representative, Mayer, Arizona)** was named as a respondent in a FINRA complaint alleging that, in her capacity as a personal banker with her member firm's affiliated bank, she withdrew funds totaling \$900 from a customer's bank account and established an online bill pay arrangement for the customer through the account, which she used to make online payments totaling \$686 for herself and not for the customer's benefit and without the customer's authorization, knowledge or consent. The complaint alleges that Bengé failed to respond to FINRA requests for information. **(FINRA Case #2009018020301)**

**Century Pacific Securities, Inc. (CRD #113698, Kirkland, Washington) and Asa Williams (CRD #2233649, Registered Principal, Bellevue, Washington)** were named as respondents in a FINRA complaint alleging that the firm, acting through Williams, charged a customer a markup for an adjustable rate mortgages trust collateralized mortgage obligation (CMO) that was unfair, taking into consideration all relevant circumstances, including market conditions with respect to such security at the time of the transaction, the expense involved, the fact that the firm was entitled to a profit, the type of security involved, the availability of the security in the market, the price of the security, the amount of money involved in the transaction, disclosure of the markup to the customer and the nature of the firm's business. The complaint alleges that Williams sent correspondence regarding CMOs to a customer that compared CMOs to U. S. Treasury bills and failed to disclose risks associated with CMO's yield and average life. The complaint also alleges that the firm, acting through Williams, failed to offer customers, before the sale of the CMOs, educational materials that included a discussion of the characteristics and risks of CMOs, the structure of a CMO, the relationship between mortgage loans and mortgage securities, questions an investor should ask before investing and a glossary of terms. The complaint further alleges that Williams sent correspondence to prospective investors regarding a private placement, which was not fair or balanced and contained false, exaggerated, unwarranted, or misleading statements or claims, including predicted or projected performance. In addition, the complaint alleges that Williams engaged in a private securities transaction for compensation and did not provide any written notice to his firm. Moreover, the complaint alleges that the firm, acting through its chief compliance officer, failed to adequately and properly supervise Williams to ensure compliance with applicable rules and regulations. The complaint alleges that the firm, acting through its chief compliance officer, failed to implement its written supervisory procedures regarding markups, review of correspondence, branch inspections and heightened supervision. The complaint also alleges that the firm failed to comply with SEC and FINRA rules regarding the preservation of records in electronic formats. **(FINRA Case #2008014271401)**

**Uzo Omar Chima (CRD #3067054, Registered Principal, Baltimore, Maryland)** was named as a respondent in a FINRA complaint alleging that he engaged in a pattern of unsuitable short-term trading and switching of Unit Investment Trusts (UITs), closed-end funds (CEFs) and mutual funds in customer accounts without having reasonable grounds for believing that such transactions were suitable for the customers in view of the nature, frequency and size of the recommended transactions and in light of their financial situations, investment objectives, circumstances and needs. The complaint

alleges that some of the transactions were effected through excessive use of margin. The complaint also alleges that the transactions generated approximately \$450,000 in commissions for Chima and over \$370,000 in losses to the customers, including \$59,000 in excessive sales charges. The complaint further alleges that in numerous UIT purchases, none of which exceeded \$250,000, Chima failed to apply the rollover discount to which each customer was entitled. In addition, the complaint alleges that Chima engaged in discretionary trading in customers' accounts without prior written authorization. Moreover, the complaint alleges that Chima caused his member firm's books and records to be false in material respects, in that he provided false information in customer update forms for customers' accounts, signed the forms certifying that they were accurate and submitted them to his firm. The complaint also alleges that Chima mismarked trade tickets for trades in customers' accounts, stating that the orders were "unsolicited" when, in fact, they were "solicited." **(FINRA Case #2006007105101)**

**Michael William Keleher (CRD #3244480, Registered Representative, Freehold, New Jersey)** was named as a respondent in a FINRA complaint alleging that he falsified elderly customers' account information forms and used the forms to open commission-based brokerage accounts, which the customers did not authorize. The complaint alleges that Keleher made unauthorized transactions in the customer accounts. The complaint also alleges that Keleher paid \$78,266 in commissions to an unregistered individual, which were derived from securities business. **(FINRA Case #2008013229701)**

**Buka Uzoma Nwigwe (CRD #5289362, Registered Representative, New York, New York)** was named as a respondent in a FINRA complaint alleging that, when he worked as a personal banker for his member firm's affiliate bank, he requested that a credit card for a customer be rush-delivered to his attention at the branch, used the credit card to incur approximately \$1,746 in unauthorized charges for his personal use without the customer's permission, and forged the customer's signature on multiple occasions to complete purchases with the card. The complaint alleges that Nwigwe admitted verbally and in writing to the firm's internal investigators that he used the unauthorized credit card issued at his request for the customer for his personal use. **(FINRA Case #2009019332001)**

**Ernesto Paiz (CRD #4582379, Registered Representative, Houston, Texas)** was named as a respondent in a FINRA complaint alleging that he misappropriated \$7,446.62 in customer insurance premium payments by not depositing all of the payments from member firm customers documented in remittance reports into his Agent Group Banking account as required; accepting cash payments from customers and neglecting to apply the entire cash premium payment to customers' insurance policies; and accepting check payments from customers and failing to apply the payments to the correct policies, but instead crediting the check payments to his own insurance policy and other customers' policies presumably to cover cash payments for the customers which were misappropriated. The complaint alleges that Paiz has not reimbursed the firm for the misappropriated insurance payments. The complaint also alleges that Paiz failed to respond to FINRA requests for information. **(FINRA Case #2009018211101)**

**Jerry Jason Rice (CRD #4203426, Registered Representative, Fresno, California)** was named as a respondent in a FINRA complaint alleging that he caused unauthorized transactions to be executed in a customer's account by purchasing bonds for the account without the customer's knowledge or authorization. The complaint alleges that Rice failed to respond to FINRA requests for information and to appear to provide testimony. **(FINRA Case #2008014507101)**

**Evan Seth Rosenfeld (CRD #2788398, Registered Representative, Jericho, New York)** was named as a respondent in a FINRA complaint alleging that he executed, or caused to be executed, day trades in a customer's account without the customer's prior knowledge, authorization or consent. The complaint alleges that the positions were closed out the same day they were opened and the total loss sustained in the customer's account was \$57,238.26. The complaint also alleges that Rosenfeld was without reasonable grounds for believing the transactions were suitable based on the customer's financial situation, investment objectives and needs. The complaint further alleges that Rosenfeld failed to appear for a FINRA on the record interview. **(FINRA Case #2008015395601)**

**Carlos C. Sarmiento Jr. (CRD #5003883, Registered Representative, San Antonio, Texas)** was named as a respondent in a FINRA complaint alleging that he converted a total of approximately \$82,350 through checks which he took and forged from a joint brokerage account firm customers held. The complaint alleges that Sarmiento admitted to one of the customers that he had taken the checks belonging to the customers' joint brokerage account while at the other customer's home, admitted to stealing their money, indicated that he would return the money and asked that he not be reported. The complaint also alleges that Sarmiento's former member firm contacted his current firm regarding Sarmiento's conversion of customers' funds, while at the former firm, and when questioned, Sarmiento admitted to having taken the customers' funds. The complaint further alleges that Sarmiento failed to respond to FINRA requests for information and documents. **(FINRA Case #2009019888601)**

**Jeremy Lee Woolcott (CRD #2470706, Registered Supervisor, Northville, Michigan)** was named as a respondent in a FINRA complaint alleging that he liquidated a \$10 million position in a bond in a trust which he was responsible for servicing and used the proceeds to purchase a \$10 million mortgage-backed security for the account. The complaint alleges that the transactions were effected on a discretionary basis without prior written authorization from the trust's trustee and without his member firm's prior written acceptance of the account as discretionary. **(FINRA Case #2008013898101)**



**Firms Expelled for Failure to Pay Fines and/or Costs Pursuant to FINRA Rule 8320**

**Brockington Securities, Inc.**  
Ronkonkoma, New York  
(July 8, 2010)

**Investscape Inc.**  
West Bloomfield, Michigan  
(July 8, 2010)

**Firms Suspended for Failure to Supply Financial Information Pursuant to FINRA Rule 9552**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**John Magacs**  
Ithaca, New York  
(July 1, 2010)

**McGinn, Smith & Co., Inc.**  
Albany, New York  
(July 2, 2010)

**Trevor, Cole, Reid, & Monroe, Inc.**  
New York, New York  
(May 25, 2010 – July 29, 2010)

**Firm Suspended for Failing to Pay Arbitration Awards Pursuant to FINRA Rule 9554**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Jesup & Lamont Securities Corp.**  
New York, New York  
(July 21, 2010)

**Firms Suspended for Failure to Pay Arbitration Fees Pursuant to FINRA Rule 9553**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Chicago Investment Group LLC**  
Chicago, Illinois  
(July 12, 2010)

**Jesup & Lamont Securities Corp.**  
New York, New York  
(July 2, 2010)

**Individuals Revoked for Failing to Pay Fines and/or Costs Pursuant to FINRA Rule 8320**

(If the revocation has been rescinded, the date follows the revocation date.)

**Robert Anthony Bellia Jr.**  
Wantagh, New York  
(July 7, 2010)

**John Wilson Bendall Jr.**  
New York, New York  
(July 9, 2010)

**Individuals Barred Pursuant to FINRA Rule 9552(h) (If the bar has been vacated, the date follows the bar date.)**

**Timothy Martin Brunori**  
St. Petersburg, Florida  
(July 6, 2010)

**Juan D. Fernandez**  
Coral Gables, Florida  
(July 30, 2010)

**Todd David Gillespie**  
Aliso Viejo, California  
(July 7, 2010)

**Rhonda Lennett Harder**  
Oklahoma City, Oklahoma  
(July 9, 2010)

**Nikki Jane Hill**  
Cincinnati, Ohio  
(July 12, 2010)

**David Louis Klein**  
Okeechobee, Florida  
(July 6, 2010)

**Douglas Michael Lee**  
Virginia Beach, Virginia  
(July 29, 2010)

**David Paul LeFort**  
Wareham, Massachusetts  
(July 29, 2010)

**Justin Wesley Markham**  
Collierville, Tennessee  
(July 30, 2010)

**Sean Patrick McDonnell**  
Philadelphia, Pennsylvania  
(July 26, 2010)

**Tony Fred Mingo**  
Aliso Viejo, California  
(July 7, 2010)

**Patrick Edward Muldoon**  
Springfield, Pennsylvania  
(July 15, 2010)

**Alexander Edward Norman**  
Brooklyn, New York  
(July 22, 2010)

**Gustavo Adolfo Olivera**  
Atlanta, Georgia  
(July 6, 2010)

**Dean John Scaiano**  
Highlands, New Jersey  
(July 6, 2010)

**Frederick Roy Schwimmer**  
Winnetka, Illinois  
(July 22, 2010)

**Edward Rudolph Sheppard**  
Westchester, New York  
(July 2, 2010)

**Kaia Fusayo Strickland**  
College Park, Georgia  
(July 6, 2010)

**Robert Benjamin Wheeler**  
Perrysburg, Ohio  
(July 19, 2010)

**Terry T. Wong**  
Portsmouth, New Hampshire  
(July 19, 2010)

**Individuals Suspended Pursuant to  
FINRA Rule 9552(d)**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Reginald Charles Bennett**  
Huntington Beach, California  
(June 11, 2010 – July 19, 2010)

**Jon Murat Beret**  
Los Angeles, California  
(July 26, 2010)

**Mary Lynn Gilbert**  
Mesa, Arizona  
(July 6, 2010)

**James M. Glover**  
West Harrison, New York  
(July 12, 2010)

**Juan Osiel Gonzalez**  
Miami Shores, Florida  
(July 6, 2010)

**Lover High Jr.**  
Clarkston, Georgia  
(July 19, 2010)

**Richard Donald Kittelstad**  
Clearwater, Florida  
(July 19, 2010)

**Kenneth Michael MacPherson**  
Nixa, Missouri  
(July 16, 2010)

**Michelle Nuta**  
Hopelawn, New Jersey  
(July 12, 2010)

**Carlos Juan Ortiz**  
Chicago, Illinois  
(July 26, 2010)

**Kenneth Eric Phillips**  
Ashburn, Virginia  
(July 6, 2010)

**Johnnie Kelsey Pope**  
Suffolk, Virginia  
(July 8, 2010)

**Gary Michael Staton**  
Broken Arrow, Oklahoma  
(July 19, 2010)

**Individuals Suspended for Failure to Comply with an Arbitration Award or Settlement Agreement Pursuant to FINRA Rule Series 9554**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Kirk Christopher Barrett**  
Weymouth, Massachusetts  
(July 23, 2010)

**William Jonathan Bettis**  
Carlsbad, California  
(July 23, 2010)

**Frank Julian Bluestein**  
Milford, Michigan  
(July 15, 2010)

**Charles Lorne Davey**  
Superior, Colorado  
(May 7, 2010 – July 22, 2010)

**Peter Jeffrey Dawson**  
Huntington, New York  
(July 23, 2010)

**Carlos Manuel Garcia**  
Miami Beach, Florida  
(July 15, 2010)

**Roland Hansalik**  
Rancho Palos Verde, California  
(July 15, 2010)

**James Matt Henry**  
Star City, Arkansas  
(July 23, 2010)

**Nancy Griffiths Lawton**  
Bloomsburg, Pennsylvania  
(July 23, 2010)

**Richard Elliott Lee**  
Miami, Florida  
(July 15, 2010)

**Wesley Glyn Long**  
Fort Worth, Texas  
(July 8, 2010)

**Jem Paul Maxwell**  
Chicago, Illinois  
(January 14, 2010 – July 15, 2010)

**Jeremy James McGilvrey**  
San Antonio, Texas  
(July 23, 2010)

**Jeffrey Joseph Southard**  
Pittsgrove, New Jersey  
(July 23, 2010)

**Michael Scott Wittenberg**  
Huntington, New York  
(July 23, 2010)

## **FINRA Fines Deutsche Bank Securities \$7.5 Million for Negligent Misrepresentations Related to Subprime Securitizations**

The Financial Industry Regulatory Authority (FINRA) announced that it has fined Deutsche Bank Securities Inc. \$7.5 million for negligently misrepresenting delinquency data in connection with the issuance of subprime securities.

FINRA found that Deutsche Bank Securities negligently misrepresented and underreported the percentages of mortgages that were delinquent in the prospectus supplements of six subprime residential mortgage backed securities (MBS) issued in 2006. The firm also failed to correct errors by a third party vendor and servicers, which underreported the historical delinquency rates of the mortgages in connection with its offer and sale of 16 additional subprime MBS issued in 2007. Further, Deutsche Bank Securities failed to establish a system to supervise its reporting of required historical delinquency information.

“It is critically important that firms provide accurate information for their customers to use in evaluating investments,” said James S. Shorris, FINRA Executive Vice President and Acting Chief of Enforcement. “Future returns on subprime securitizations are affected by mortgage holders who fail to make loan payments. Delinquency rates constitute material information for investors. Deutsche Bank Securities’ failure to ensure that the delinquency information was accurate is an unacceptable failure to meet this important obligation.”

Delinquency rates constitute material information for MBS investments because that data affects the investor’s ability to evaluate the fair market value, the yields on the certificates and the anticipated holding periods of each of these securitizations. Investors may consider this information in assessing the profitability of these securitizations and in determining whether future returns would be disrupted by mortgage holders who fail to make loan payments.

During 2006 and 2007, Deutsche Bank Securities underwrote subprime MBS and sold them to institutional investors. FINRA found that in the prospectus supplements of six subprime securitizations worth approximately \$2.2 billion offered in March 2006, the firm described a method of calculating delinquencies that was in fact different from the method it actually used. As a result, delinquencies were underreported. For example, in one MBS deal, Deutsche Bank Securities reported that under its described method of calculation, 8.75 percent of the loans were between 30 – 59 days delinquent, corresponding to \$14 million in delinquent loans. But the actual delinquency numbers computed under the method Deutsche Bank Securities disclosed were significantly higher, with 24.02 percent of the loans between 30 and 59 days delinquent, corresponding to \$38.5 million in delinquent loans.

FINRA also found that Deutsche Bank Securities negligently underreported historical delinquency rates on a website the firm maintained that was referenced in prospectus materials in connection with the sale of 16 MBS.

Issuers of subprime MBS are required to disclose historical performance information for prior securitizations that contain similar mortgage loans as collateral. That information, which includes historical delinquency rates, is called “static pool” information—and it is one of the disclosure requirements for asset-backed securities under Securities and Exchange Commission (SEC) Regulation AB. After Regulation AB became effective in December 2005, Deutsche Bank Securities prospectus supplements for new subprime MBS offerings informed investors they could view static pool information on the firm’s Regulation AB website.

In January 2007, Deutsche Bank Securities learned that the outside vendor it retained to populate its Regulation AB website was underreporting delinquencies as a result of errors made by the servicers responsible for tracking delinquencies. Deutsche Bank Securities was able to determine that these errors affected 16 securitizations and was able to provide corrected delinquency data for 13 of them to the vendor to use going forward. But the vendor failed to use the corrected data. The firm never ensured that the vendor posted the corrected static pool information and continued to refer investors to the inaccurate information about these 13 securitizations on the Regulation AB website. While Deutsche Bank Securities was not able to determine the extent to which delinquency rates were underreported in the remaining three affected securitizations, the firm continued to use this data without indicating on its Regulation AB website that the information was inaccurate.

In settling this matter, Deutsche Bank Securities neither admitted nor denied the charges, but consented to the entry of FINRA’s findings.

### **FINRA Orders SunTrust Investment Services to Pay \$1.44 Million for Unsuitable UIT, Closed-End Fund and Mutual Fund Transactions**

#### **Sanction Includes \$540,000 in Restitution to Disadvantaged Customers; Broker Barred in Separate Action, Former Branch Manager Suspended**

The Financial Industry Regulatory Authority (FINRA) has ordered SunTrust Investment Services, Inc. of Atlanta, GA, to pay \$1.44 million to resolve charges related to unsuitable unit investment trust (UIT), closed-end fund (CEF) and mutual fund transactions. Of that amount, \$900,000 is a fine that includes nearly \$224,000 in disgorgement of commissions earned on the unsuitable trades. The remaining \$540,000 represents restitution to 17 customers who incurred losses.

As part of this settlement, SunTrust must also review all UIT purchases and provide remediation to all eligible customers who did not receive the maximum sales charge discount.

“Firms must monitor for patterns of UIT and closed-end fund sales to ensure that such sales are suitable for the customer,” said James S. Shorris, FINRA Executive Vice President and Acting Chief of Enforcement. “SunTrust failed to meet that obligation, which caused its customers, including elderly customers, to incur significant losses.”

FINRA found that SunTrust, through two brokers in the firm's Maryland Region, engaged in a pattern of unsuitable short-term UIT, CEF and mutual fund transactions in accounts of 17 customers, most of whom were elderly and/or disabled. The brokers also engaged in unsuitable margin transactions in the accounts of 10 of the 17 customers. In addition, FINRA found that SunTrust failed to ensure that eligible customers received the maximum sales charge discount on UIT purchases and lacked adequate systems and procedures for monitoring and supervising UIT, CEF and margin transactions.

FINRA previously sanctioned one of the individual brokers involved in this matter, David Bredenburg of Timonium, MD, permanently barring him from working in the securities industry. FINRA has filed a complaint against the second broker, charging him with numerous violations, including unsuitable recommendations, sales and use of margin; failure to provide maximum sales charge discounts on UIT transactions; and, engaging in discretionary trading in customer accounts without written authorization. FINRA also suspended the two brokers' former supervisor, Donald Mattran of Bel Air, MD, for six months in any principal capacity and fined him \$10,000.

FINRA found that between February 2004 and November 2006, SunTrust, through Bredenburg and, it is alleged, the second broker, recommended 294 unsuitable short-term UIT, CEF and mutual fund transactions in the accounts of 17 customers. The two brokers repeatedly recommended that the customers sell UITs and CEFs less than one year—and sometimes as soon as one month—after purchasing the securities at the broker's recommendation, with little or no economic benefit to the customer.

FINRA further found that SunTrust, through the two brokers, recommended to 10 of those customers unsuitable purchases and sales of securities on margin—failing to adequately disclose the risks and costs of trading on margin and lacking a reasonable basis for their recommendations. As a result, the customers paid over \$133,000 in margin interest.

FINRA also found that SunTrust lacked adequate systems and procedures to monitor UIT and CEF transactions and margin accounts, and to ensure that customers purchasing UITs received applicable sales charge discounts.

Furthermore, FINRA found that between February 2004 and December 2005, Mattran and SunTrust approved each short-term transaction, including transactions placed using margin, and did not respond adequately to red flags suggesting that the transactions were unsuitable. For example, the trade blotter listed over 200 sales of UITs and CEFs among the 17 customers' accounts and compliance reviews in August 2004 and April 2005 alerted Mattran and the firm to questionable short-term UIT and CEF transactions by both brokers.

FINRA's action barring Bredenburg found that between February 2004 and March 2009—while he was registered first with SunTrust and later with Merrill Lynch—Bredenburg recommended at least 167 unsuitable short-term UIT and CEF transactions, including switches, to 13 customers who were elderly, retired or disabled and who had conservative to moderate investment profiles. He also recommended unsuitable transactions on margin and unsuitable variable annuity liquidations. FINRA further



found that Bredenburg failed to disclose to customers the costs and fees associated with short-term CEF and UIT transactions, failed to ensure that customers received maximum sales charge discounts on UIT purchases and engaged in discretionary trading without prior written authorization.

In addition, FINRA found that between August 2008 and February 2009, while registered with Merrill Lynch, Bredenburg accessed a customer's Merrill Lynch brokerage account through the internet and, without the customer's knowledge, transferred funds from the customer's account to pay Bredenburg's personal expenses, including mortgage, car loan and credit cards. Merrill Lynch has compensated firm customers affected by Bredenburg's misconduct.

In concluding these settlements, SunTrust, Bredenburg and Mattran neither admitted nor denied the charges, but consented to the entry of FINRA's findings. FINRA's charges against the second broker alleged to be involved are pending.

Mattran's suspension is in effect from August 16, 2010, through February 15, 2011.